Scott. II-37—30,000—26-11-34.

Public Police (1934) Department

(30)

MS. SERIES.

G.O. No. 306.

DATED 28 6. 1934

[Despatch Abstract.]

Arms Act

South Kanara district – Licences – Illegal cancellation – Instructions issued

South Kanara District Magistrate's Office,

Camp: Coondapur, dated 22nd March 1934.

From

E. M. Gawne, Esq, I.C.S.,
District Magistrate,
South Kanara.

To

The Chief Secretary to Government,
Public (Police) Department,
Madras.

25 MAR 1934

Sir,

Arms Act--Gun licenses--Cancellation on account of death of licensees etc.--instructions -- requested.

Ref:- G. O. No. Ms. 111 Public (Police) Department dated 2nd March 1934.

In the G. O. quoted above, my attention has been drawn to section 18 of the Indian Arms Act, 1878 by which a license may be cancelled if it is necessary for the security of the public peace. The Government in the G. O. quoted above have held that 'cancellation' of a license in any other circumstances is illegal.

2. There are however several instances where it is necessary to cancel an arms license within the period of its validity on administrative grounds. These cases are not provided for specifically under section 18.

The usual cases are:

(1) death of the licensee

(2) Surrender of the license by the licensee himself for cancellation or its transfer to others.

(3) Case of a licensee whose whereabouts are not known.

It has been the practice hitherto to cancel such licenses on reports received from the Police. Clearly in such cases the

Magistrate cannot employ Rule 43, which applies to expiring licenses. Presumably he must employ section 18 in order to cancel the licenses within the period of validity. This procedure has never been objected to. In fact licensees in some cases ask to have their licenses cancelled, a course which they would certainly not take if they thought that the reason would be held to be the security of the public peace.

3. I have recently received from the Police the usual reports for the cancellation of licenses on account of death of licensees as detailed below:-

1. Mangalore 229/1 XVI in force up to 31.12.34
2. Man. 109/4 XVI ----do---
3. Put. 226/10 XVI in force up to 31.12.36
4. Kkl. 94/5 XIX in force up to 31.12.35

There is also another case G. L. Put. 81/10 XIX in force up to 31.12.35 in which the licensee sold his gun and applied for transfer of the license and gun in the name of the purchaser on the ground that he is not in need of a gun. In all these cases the licenses need to be cancelled but they cannot be cancelled on the ground that it is necessary for the security of the public peace.

I solicit the orders of Government as to the proper disposal of such cases in future.

4. The connected papers are enclosed for reference and return.

Your obedient servant,

Collector.

3 · 5

CONFIDENTIAL. South Kanara District Magistrate's Office,
Mangalore, dated 17th April 1934.

From

10170
(1974)

E. M. Gawne, Esq., I.C.S.,
District Magistrate,
South Kanara.

To

The Chief Secretary to Government,
Public (Police) Department.
Stone House Hill, The Nilgiris.

Sir,

Arms Act--South Kanara--Cancellation of licenses for non-purchase of ammunition--G. O. No. MS 711 Public (police) dated 2/3/34.

In this G. O. the Government have ordered that I should take action to renew licenses in all cases in which cancellation has been illegally ordered. The Government have held that the cancellation of licenses for non-purchase of ammunition was illegal because section 18 of the Arms Act provides for cancellation in only one contingency and that is when the security of the public peace demands such action.

2 I submit however that the cancellation of gun licenses which I have made has not been done under section 18 of the Arms Act. The action has been taken under section 43 of the Arms Rules whereby the authority that grants a license may also refuse to renew it. In communicating the orders that licenses will not be renewed it had always been the practice to use the word 'cancel' because the word when translated into the vernacular is more easily understood than a circumlocution like 'renewal has been refused to.' So far as the licensee is concerned it is immaterial to him whether his license is 'cancelled' or is 'not renewed' at the end of its period of validity. In either case he has to surrender the arm and place it in police custody.

3 I invite the attention of the Government to the instructions which I issued on November 1st 1933 to my office at page 1 of file C2--4709-M-33. From this I submit that it is clear that the action which I took was under rule 43 of the Arms Rules and not under sec. 18 of the Arms Act. So far as I am aware no licensee advanced the argument that a decision refusing to renew a license could not be legally communicated to parties by the use of the word cancel. The file shows 'not renewed' and 'cancelled' used indifferently throughout, e.g. in the Proceedings dated 7th November 1933. The general order that was issued did not specify either section 18 of the Act or Rule 43, but the fact that it was issued under Rule 43 was implied by the fact that licensees were informed that an appeal lay to the Local Government. Such an appeal is provided for in Rule 43, but there is no appeal provided for in the Act against an order under section 18 of the Act.

4 At the time when it was known that licenses were not being renewed owing to non-purchase of ammunition the police, in the course of checking licenses, found a number of cases where no ammunition had been bought for 2 years but the licenses were valid for a further period of one or two years. In such cases references were made to me and I informed the Police that the cancellation of licenses within the period of validity under section 18 of the Act for non-purchase of ammunition was not in my opinion possible. I therefore anticipated the very argument which the Government have now raised.

5 I submit therefore that no licenses have been cancelled illegally in this district and so there is no further action to be taken by me in pursuance of the G. O. quoted above. I also invite respectfully the attention of Government to para 3 of G. O. 448 Public (Police) dated 26th August 1933 wherein the Government have specifically asked for the free exercise of the unfettered discretion of District Magistrates in the matter of renewing licenses. It was because of this G. O. that I took the action which I did. It would have been infinitely easier to renew all the licenses by a mere signature, but as the Government drew pointed attention to the fact that the District Magistrate's discretion was unfettered and should be exercised freely, I took this to be an indication that the Government desired that renewals should not be "

"slaughtered with a rubber stamp". I was also of opinion that there are in this district far too many licenses; applications for new licenses are also very numerous.

6 Actually a considerable number of persons came forward to protest against the cancellation of their licenses on the ground that they used their guns but did not purchase ammunition themselves. Roman Catholic priests protested that it was the duty of their faithful parishioners to provide them with ammunition because their guns were used for the defence of their church. Others again laid the blame on the arms dealers and said that they had failed to make the entries. Licenses were renewed to all headmen who asked for reconsideration and to all Roman Catholic priests and to several who argued that having lost their money their arms license was their remaining hall mark of gentility. Where officers recommended the renewal to persons like forest guards the licenses were also renewed. On the whole I have accepted the position that if a man was sufficiently keen on his arm to come and protest in person to me in camp, the license might be renewed. Mr. Bhat M.L.C. however argues in a general way and I doubt whether he has got a list of licenses which have been cancelled and which belong to persons who have a genuine need for them. It is merely the cliché of the South Kanara petitioner to say that the forests of the district are 'infested with wild beasts' Huge beats organised by the Conservator of Forests, the District Forest Officer and myself in the Coondapur Taluk in January, in the endeavour to beat out a man-eating panther which had killed over 35 persons, showed that the jungles were completely empty of game.

7 I had intended to bring this paper for discussion at Ootacamund in May, but as Mr. Bhat is writing to the Government about the delay in the issuing of orders by the District Magistrate, I have addressed the Government now.

Your obedient servant,

District Magistrate.

Mangalore.

14-4-1934

From

U.C.Subramanya Bhatt Esq., B.A., B.L.,

M. L. C.

Mangalore.

To

The Chief Secretary,

Government of Madras.

Ref:- your letter dated 7-4-34

Sir,

As per your letter abovesaid I wrote to the District Magistrate of South Kanara requesting him to let me know the nature of the instructions received by him from the Government and in particular to let me know as to whether he would take the initiative himself in restoring the cancelled gun licences or whether the licence - holders have to make any further applications in the matter, to which he has replied to me to-day stating that he has received some instructions on the matter of cancellation of gun licenses generally but as the same are ambiguous he has addressed the Government for further information. He has also written to me saying that the licences have been cancelled not for non-purchase of ammunition during the previous year but for the three previous years.

In this connection I should like to submit that in my opinion it does not make any difference in principle as to whether amunition was not purchased during three years or one year. The only question is as to whether

it is the right on principle to cancel gun licences merely for non-purchase of amunition and whether the Arms' Act allows cancellation on that ground. I must submit that it is not so in either case. Moreover the licence-holders have been taken by surprise by the course adopted by the District Magistrate. If they had known that gun licences would be cancelled for non-purchase of amunition they would have purchased amunition and taken care to see that their licences are not cancelled. So long as there was no fear, whether on the ground of any statutory provision compelling them to purchase ~~them~~ amunition or on previous practice, the licence-holders cannot be blamed for not purchasing amunition nor can they be penalised for not doing a thing which under law they were not bound to do. If the District Magistrate wanted to enforce any such new law he must either have moved the Government to get the necessary changes in the law affected or at least made that as a condition for the future. In any case to have penalised them for not doing a thing which they never so much as even dreamt of was necessary that they should do, is grossly unjust. Besides no explanation was called for from them as to why they did not purchase nor were they asked whether they had amunition purchased prior to the three years in question or whether they themselves had manufactured amunition with powder purchased by them or whether they had used their guns during the three years etc. The action of the District Magistrate in having cancelled without any such enquiry, is opposed to all sense of natural justice and is highly arbitrary and unjust. Besides being calculated to put the poor riots to ~~break laws~~ quiet laws and hardship in causing them to surrender the costly guns purchased by them at heavy price. I learn that in South Kanara the licence-holders themselves manufacture amunition for which they purchase only powder which is used with the old sockets of the amunition purchased previously. Moreover the licence-holders do not generally use their guns every day for hunting and other purposes but use it sparely for killing wild beasts etc. in cases of danger only.

The cancellation of these licences especially in the talugs of Kasaragod, Puttur and Karkal which border on the ghats and are full of forests and are very thinly populated has caused great hardship to the people and has deprived them of the only source of safety as against the wild beasts.

3 Lastly it is not only against wild beasts and their depredations that gun licences are obtained by the people in this District. Guns are necessary to protect the property and person of persons from thieves or enemies. The possession of a gun and that ~~the~~ knowledge of the person that he possesses a gun is itself sufficient security in this respect and the owner may not be put to the necessity of using the gun for years togther; but to cancel his licence on the mere ground that he has not used it would be depriving him from the only source of security which he possesses in possessing a gun. This especially is the case with Brahmin licence-holders who being purely vegetarians do not use their guns for hunting but being fairly wealthy land holders or bankers living in ~~the~~ far off villages in the District or being planters in the border of the ghats require the safety which the possession of a gun gives them in order to protect their ~~xxxxx~~ wealth, jewellery or property. In this respect I should think that a man who uses his gun least of all though he had possessed it for a number of years is the person most entitled to continue to hold the same and also deserves it, having not misused it

4 I have gone a little into detail as I found from the District Magistrate's letter that he still seems to insist in the course that he had adopted. I wish that before any final decision is reached the Government should know the other side of the question as well. I cannot say that I have exhausted all the arguements which are to be adduced in favour of the restoration of the cancelled

licences but I have only dealt upon some special and peculiar points which have struck me. The cancellation of the licences have sorely affected the licence-holders and the riots who have been having the guns for a number of years together and are tried honest and worthy persons worthy of continuing to hold the same. It is, therefore, hoped that not withstanding the fact that whether it is one year or three years in which amunition was not purchased, the licences of all those persons whose licences have been cancelled may be renewed or restored.

Wit kind regards,

I remain,

Sir,

Yours sincerely,

M.C. Strachan

Note: Copy sent to the District Magistrate S. Kanara

W

Public (Police) Dept.

Letter 7974-1 d 10.5.34
Ref.

To

M.R.Ry U. C. Subrahmanya
Bhatt Avl., M.L.C.,
Mangalore

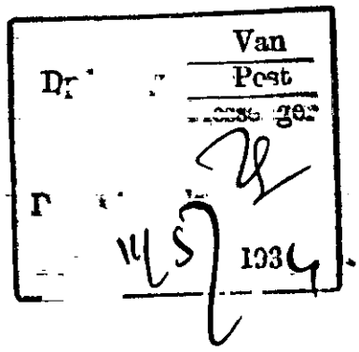
Sir,

Arms Act - South Kanara district - Cancellation - Ref. your letter d 14.4.1934.

I am directed to acknowledge the receipt of your letter quoted above and to say that the matter is receiving the attention of Govt.

I have etc.

Rbs
27.4.34



U

Public Police Dept

Memo 7974-2 dt 14.5.34

Arms Act - Licences - Cancellation - Ref. letters from the D.M. of South Kanara dt: 22.3.1934 and 17.4.1934

—

The D.M. of South Kanara is asked to ~~explain~~ state under what provisions he ordered, ~~the deposit of weapons sometime before the expiry of the licences~~, the deposit of weapons ~~within a limit of time~~ (some time before the expiry of the licences) and in how many cases he has done so.

Rs
10.5.34

15/5

To The D.M. of S. Kanara

[with the A.R. flag (T)]

11/5/34

2 [illegible] 1934
CHIEF SECRETARY

12

CONFIDENTIAL.

South Kanara District Magistrate's Office,
Mangalore, dated 18th May 1934.

From

E. M. Gawne, Esq, I.C.S.,
District Magistrate,
South Kanara.

CHIEF SECRETARY
24 5 34
GOVERNMENT OF MADRAS

To

The Chief Secretary to the Government
of Madras, "Stone House Hill, The Nilgiris".

ASSISTANT SECRETARY TO GOVT
26 MAY 1934

Sir,

Arms Act--Licenses--Cancellation--reference--this office letters dated 22nd March 1934 and 17th April 1934.
Ref: Govt.Memorandum No.7974-2 d/14.5.1934 Pub.(Police)Department.

The form of notice approved by me on 4th December 1933 for communicating the intimation of non-renewal has omitted to take into consideration the last days of December 1933.

2. It is however the custom in South Kanara to regard the days of the month of December very much as 'dies non' for the purpose of the administration of the Arms Act. That is to say, persons go about armed without their licenses because it is difficult, if not impossible, to prove whether their licenses are in the District Magistrate's office or in transit to or fro; persons who get new or different licenses are not charged any fee for the month but are given their licenses as from the beginning of January, even though they may receive them in December. Similarly cancellations owing to refusal of the District Magistrate to renew licenses are ordered without special regard for the few remaining days of the year for which the old license is still valid. In the present case the form to be used for communicating the non-renewal (cancellation) of the license was approved by me on the 4th December. There is great pressure of work in the District Magistrate's Office in December, in the effort to get renewed before the Xmas holidays all licenses that are to be renewed. It therefore happens inevitably that the despatch of renewed licenses is

13

held up, and even more so the despatch of orders that licenses will not be renewed.

3. With regard to renewed licenses the procedure in this office is for each license to be placed in a wrapper in the magisterial branch of my office, addressed and then posted. But the notices about non-renewal of licenses were sorted according to Taluks and sent with lists to the Taluk offices for being issued to the licensees through the Police. There is a considerable amount of scriptory work connected with the distribution of licenses whether renewed or not, since the fact of renewal or otherwise has to be entered in every case in the registers of the District Magistrate. As the form in which the license was refused renewal was not approved by me till the 4th December, it is quite unlikely that many persons received their notices through the police before January. The Taluk offices too are busy in December as they have their business statements in view and so papers which do not affect the business statement are apt to be put in the background. Similarly the Police would not make special journeys to serve the notices of cancellation and would get rid of them gradually in the course of beat duties.

4. In the circumstances it will be a considerable labour to ascertain the dates on which the notices were served on individual licensees. It can only be done by making enquiries at each police station, where the beat books of constables will have to be searched for the information. In these cases no duplicate copies were sent to be returned with the date of service. I therefore request to be informed whether these enquiries should now be started.

Your obedient servant,

Dt.Magistrate.

4

Public (Police) Department.

Arms Act - Cancellation of licences.

(Ct. 7974) From the D.M. of South Kanara letter dated 22-3-1934.

*****

Cancellation of licences is provided for in Section 18 of the Indian Arms Act, 1878. The District Magistrate can cancel a licence, without taking any judicial proceeding, only under clause(a) of that section. Under that clause, a licence may be cancelled when for reasons to be recorded in writing such a step is considered necessary for the security of the public peace. It does not appear that a licence can be cancelled for any reasons other than that at A above.

2. The District Magistrate of South Kanara has asked how he should deal with the licences of

(a) persons who are dead,

(b) persons who surrender thair licences for cancellation and

(c) persons whose whereabouts are not known.

3. Licences of persons who are dead. The licence granted to a person, has no force after his death. The licencee has ceased to exist and the weapons covered by ~~it~~ The licence can not be retained in the family without offending the Arms Act unless some other member of it takes out a valid licence in respect of them. There is therefore no need to have the licence cancelled. To prevent any possible misuse, the police have to obtain the licences from the family of the deceased, for which action there can reasonably be no objection, and forward it to the D.M; and the D.M. has only to file it in his records after making the entry "Died on / " in the registers maintained.

15 82

4. Licences of pe sons who surrended their licences for cancellation. This can arise only when the licensee had parted or had the intention of parting with his weapon by transfer or otherwise. In such cases the licences will invariably be sent to the D.M. The D.M. has only to file them in his office with the remarks "weapons transferred on against each licensee's name in the registers. There is no need to cancel the licences. ~~The licensees are not likely to ask for a return of the licences; and if they should do so, there will be sufficient ground for action under Section 18.~~

5. Licences of persons whose whereabouts are not known. If the D.M. has reasons to believe that a licensee is purposely concealing his whereabouts so as to avoid a check of his arms etc., there would seem to be sufficient grounds for taking action under Section 18(a) of the Act. If however no such ~~infirm~~ action can be attributed, there is really no need to worry about his licence; it normally expired on the date marked on it and may continue to be valid upto that date.

6. For orders whether the D.M. may be informed accordingly.

PA 11.4.34

CS 14/4/34

16

-6-

2153-5 x 0
6-1 C F

7 A further letter from the D.M. of South Kanara and a letter ~~since received~~ from Mr.U.C.Subrahmania Bhatt, M.L.C., on the same subject have since been added to the current file. The letter from Mr. Bhatt may be acknowledged. Draft submitted.

8. The subject divides itself into to heads:-
(a) whether the cancellation of licences by the D.M. of South Kanara for non-purchase of ammunition was legal and
(b) whether the cancellation on such grounds was reasonable and justified.

(a) above

9. In his letter at pages 3-5 C.F., the D.M. has stated that the ~~xxxx~~ cancellation of gun-licences in South Kanara district was under rule 43 of the Indian Arms Rules, 1924 and not under Section 18 (a) of the Indian Arms Act, 1878; that the word 'cancelled' had been loosely used in his proceedings and was intended to mean only 'refused ~~xx~~ renewal', that the two terms do not make a difference to the licensees and that as he does not consider that any licences had been illegally cancelled, he does not intend to take ~~xx~~ the action ordered in G.O. No. 111 Public (Police) dated 2-3-1934.

10 It would seem apparent from the copy of his notice at page 6 of (S) that the D.M. had ordered the deposit of the gun covered by the licence within a week of receipt of the notice and that he had thus effectively ~~xxxxx~~ curtailed the period of validity of the licence by at least a few days - the licence would normally have expired only on 31-12-1933. It cannot therefore be said that the licence was merely refused renewal. It would ~~therefore~~ seem advisable to ask the D.M. to take action as ordered in the G.O. at pages 13-14- of (S). For orders.

11. Mr. Bhatt has raised the question whether it

17

is legal to cancel or refuse to renew licences on the score that ammunition was not purchased for a long period. He contends that this was irregular in so far as no ~~xxxx~~ provision is made in the Indian Arms Act or the Rules that licences may be cancelled if ammunition is not purchased for over a long period. It does not appear that there is any force in the above argument. It is too much to expect the Act or Rules to ~~xx~~ mention the condition or conditions under which licences may be cancelled etc. The discretion is vested in the licensing authority and there is the appellate authority to rectify any injustice committed by him. This ~~appeal~~ need ~~xx~~ not therefore be pursued.

12 For the reasons ~~which the D.M. had xx~~ for cancelling the licences please see pages 6-7 of G.O. No. 111 Public (Police) d. 2-3-1934. The D.M. has cancelled licences of all persons who had not purchased ammunition for over three years because this non-purchase proved that there ~~is~~ was no genuine need for a firearm. The D.M. has been judicious in his cancellation as will be evident from para 6 of his letter on page 5 C.F. It would therefore appear that ~~there can be no objection to his action~~ his action was in order except that he should have refused renewal of the licences at the proper time instead of cancelling them before the period of their actual expiry.

13 Mr. Bhatt has however contended that the action of the D.M. was unjustifiable as

(i) he had failed to give notice of his intention to the licensees ~~xxxxxxxx~~ that their licences would be cancelled for non-purchase of ammunition,

(ii) the D.M. had not taken into account the facts that the licensee might have borrowed ammunition from his friends or that the necessity of the use of the gun had not ~~arisen.~~ ~~xx~~

(iii) and that the necessity of a gun in the case of many of the erst-while licensees is really genuine.

14 Mr. Bhatt's first objection does not seem to require any comment, except that there is no need for any such notice to be given. His other two arguments seem to be met by para 6 of the D.M's letter at page 5 C.F.

15 It appears from Mr. Bhatt's objections that all the trouble seems to have been caused by the D.M. intimating to the licensees his reasons for cancellation or non-renewal of the licences. Section 18 of Indian Arms Act, 1878 required only that the reasons for the cancellation of the licences should be recorded in writing, it does not require that these reasons should be communicated to the party. There is nothing in the Arms Rules to require a licensing authority to assign any reasons to the party for his refusal to grant or renew a licence. The D.M. may perhaps be informed that he need not hereafter give licensees any reason for cancellation or refusal to renew

16. It is seen from the D.M's letter that the word "cancellation" has been loosely used. The D.M. may be asked to refrain from doing so in future.

Reply may be sent to the D.M.'s letters on the above

The whole trouble has arisen because the D.M (1) used the word 'cancelled' when he meant 'refused to renew'

(2) illegally ~~ordered~~ the deposit of the arms before the date of the expiry of the licences.

(3) gave reasons for re-fusal to renew which was quite unnecessary and undesirable as ~~they~~ he was acting under S 18. Rules under the arms act have statutory force, and it is therefore important that in issuing orders D. Ms should be careful about the wording of their orders. If the word 'cancelled' is used and the section or rule under which the order is passed are not quoted, it must be assumed that the

D. M is proceeding under
§ 10 of the act which
allows cancellation of licence
for specific reasons to be
recorded and not under
C Rule 43 of the act which
gives discretion to D. M's to
refuse to renew and does
not enjoin the giving of
reasons, but does not
provide for an order to
deposit arms upon the
date of the expiry of the
licences.
A The matter may be dealt
with at the Collectors
enquiries. Meanwhile the
D. M. may be asked to
explain under what pro-
vision he ordered the
deposit of weapons some
time upon the expiry of
B the licences within a limit
of time and in how many
cases he has done so. In
effect he did cancel the
licences by this illegal
order about deposit-

C1

It is attempt to justify his action by actually quibbling is hardly what we could expect.

1/11/B
4-5-34

C1
5/5/34

With reference to the orders at page 7 ante, a draft memo and note for the Collectors' Conference are submitted.

The Board's proceedings at flag (T) may be returned to the Board along with the Memo ~~enclosed~~ ~~help him~~ He may require them for supplying the information required by Govt.

TB 10.5.34.

CHIEF SECRETARY * 8-MAY 1934 * GOVT. OF MADRAS

ASSISTANT SECRETARY TO GOVT 10 MAY 1934 CHIEF SECT.

[Further action to be taken as noted]

Memo taken out for issuing

TB 14.5

ASSISTANT SECRETARY 14 MAY 1934

Extract of notes from 'Collectors' Conference file.

It need not be put in as a separate subject. It comes under the general head of Arms Act. No separate note is necessary.

G.T.H.B.
12-5-1934

(Lemo No. 7974-2 Public (Police) d. 14-5-1934.)

From the D.M. of South Kanara letter d. 18-5-1934.

Please see portion marked B at page 7 ante.

~~The D.M. brings to note certain practical difficulties~~ For the reasons stated in his letter under ref 12-13 CF the D.M. has not supplied ~~in accordance~~ the number of cases in which the deposit of arms was ordered sometime before the expiry of the licences. The practice obtaining in South Kanara of cancelling licences before the period of their validity expires is not legal. It is therefor for orders whether as suggested in para 10 of page 3 ante, the D.M. should be asked to take action as ordered in G.O. No. 111 Public (Police) d. 2-3-1934.

A.

For orders

2. Portion marked A on page 12 ~~xxx~~ C.F.

The practice of issuing new licences as valid from January and allowing the use of new arms even during December seems objectionable. The licence if granted during December, should be granted for the remaining period of the year and full fee charged therefor - C.F. Head II of Licence form XVI. The D.M. may be asked to discontinue the present practice.

B.

3. Portion marked C at pages 6-7 ante.

Instructions on the lines suggested may be issued to all D.Ms. It does not appear that any suggestions were made on the point at the recent Collectors' Conference.

C

2.

10

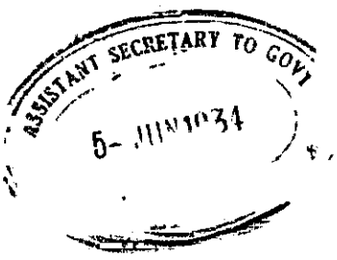
6

A. The D.M. should notify licensee that license will not be renewed & warn him to deposit his fees before expiry of the license

B Yes

C Yes

2 6 34



Two drafts Sub^d for consideration.

15.6.34. C4 may see ✓

16/6/34

Draft slightly amended so as to avoid further gibbling by the D.M.

NM

26

[G.O. No 306 Public Police) d 28.6.1934]

G.O. No 307 Public Police) d 28.6.1934

[Separately docketed]

Sectt. 11-5(8) Public (Police) DEPARTMENT.

	Date	Initials
When received for Fair-copying.		
When copied ..		
When examined ..		
When signed ..		
When despatched ..		

Arms Act - South Kanara district - Licences Illegal cancellation - Instructions issued.

1-8/286.

READ AGAIN G.O. No. ....., dated ..... 19 .

" " " " ..... " ..... 19 .

READ ALSO :—

C. No. ..... From the D.M. of South Kanara, No. nil, dated 22-3- 19 34.

" " " No. nil " 17-4-1934

Memo to " 7974-2 " 14-5- 19 34.

From the " nil " 18-5- 1934.

" " ..... " ..... " 19

ORDER.

No. 306, dated 28/6/ 1934

The D.M. of South Kanara is informed that the orders passed by him cancelling such orders gun licences were illegal and should therefore be ~~cancelled forthwith~~ withdrawn. He is requested to give effect to the orders in G.O. No. 111 Public (Police) d. 2-3-1934 immediately. If in any case he considers that a licence should not be renewed for 1935 or subsequent years, he should notify the fact to the licensee and warn him that he has to deposit his gun before expiry of his licence.

2. The D.M. enquires how he should deal with the licences of

(a) persons who are dead,

(b) persons who surrender their licences for cancellation and

(c) persons whose whereabouts are not known.

Licences of persons who are dead:- The licence granted to a person ~~has no force after his death. The licensee has ceased~~ to exist and the weapons covered by the licence cannot be retained by ~~the~~ his family ~~of the deceased~~ without offending the provisions of the Indian Arms Act unless some other member of it takes out a licence for them. ~~There is therefore no need to cancel the licence~~. It is sufficient if the D.M. files it in his records after making the entry "~~died on~~ dead" in the Arms Act registers.

Licences of persons who surrender them for cancellation:- ~~This can arise only when the licensee had parted or has the intention of parting with his weapon by transfer or otherwise~~. In such a case, the D.M. ~~has only to~~ can file the licences in

his office and note "weapons transferred on " against ~~the~~ each licensee's name in the registers. ~~There is no need to cancel the licence~~.

Licences of persons whose whereabouts are not known:- If the D.M. has reasons to believe that a licensee is purposely concealing his whereabouts to avoid a check of his arms etc., then there are sufficient grounds for taking action under Section 18(a) of the Indian Arms Act. Otherwise, ~~the licence should continue to be valid upto the date on which they normally expired~~ it.

3. The Govt. observe that in refusing to renew licences, the D.M. had used the word 'cancel' loosely. He is asked to refrain from doing so in futhre.

4. The Govt. also observe that the D.M. has been in the practice of giving reasons for ~~the~~ cancellation of licences or for ~~his~~ refusal to renew ~~licences~~ them. ~~His~~ attention is drawn to the fact that ~~he~~ ~~is not expected~~ to give any reasons for

refusal to renew licences and that in the case of cancellation he has only to record his reasons in writing. ~~In no case is he required by law to communicate his reasons to the licensees.~~ The D.M. is therefore asked not to give licensees any reason for cancellation or refusal to renew in future.

5. It is observed from the D.M's letter last read above that licences are issued as valid from January even though the use of the new arm is allowed in December. This practice is irregular. A licence, if granted during December should be granted for the remaining period of the year and full fee charged therefor.

D.M. of South Kanara
(with papers at (G) in or

Government of Madras

Received ..... 1934. Registered ..... 1934.

Abstract.

Arms Act - South Kanara district - Licences - Illegal cancellation - Instructions issued.

PUBLIC (POLICE) DEPARTMENT.

G.O. No. Ms. 306. dated the 28th June 1934.

Read the following papers:—

From the District Magistrate of South Kanara, No. Nil, dated the 22nd March 1934.

From the -do- No. Nil, dated the 17th April 1934.

Memorandum to the -do- No. 7974-2 Public (Police), dated the 14th May 1934.

From the -do- No. Nil, dated the 16th May 1934.

O R D E R.

The District Magistrate of South Kanara is informed that the orders passed by him cancelling gun licences were illegal and such orders should therefore be withdrawn. He is requested to give effect to the orders in G.O. No. 111 Public (Police), dated the 2nd March 1934, immediately. If in any case he considers that a licence should not be renewed for 1935 or subsequent xxxxxx years, he should notify the fact to the licensee and warn him that he has to deposit his [illegible] before expiry of his licence.

2. The District Magistrate enquires how he should deal with the licences of

(a) persons who are dead,

(b) persons who surrender their licences for cancellation and

(c) persons whose whereabouts are not known.

Licences of persons who are dead:- The licence granted to a person who has died automatically ceases to have validity on his death. It is sufficient if the District Magistrate files it in his records after making the entry "dead" in the Arms Act registers.

Licences of persons who surrender them for cancellation or transfer of weapons to others. In such a case, the District Magis-

trate

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Magistrate can file the licence in his office and note "weapon surrendered or transferred" against each licensee's name in the registers. These unimportant points about which no other District Magistrate seems to have found any difficulty need not have referred to the Government for orders.

Licences of persons whose whereabouts are not known.- If the District Magistrate has reasons to believe that a licensee is purposely concealing his whereabouts to avoid a check of his arms etc., then there are sufficient grounds for taking action under section 15(a) of the Indian Arms Act. Otherwise, it will suffice if the District Magistrate refuses to renew the licence on its expiry.

3. The Government observe that in refusing to renew licences, the District Magistrate had used the word 'cancel' loosely. He is asked to refrain from doing so in future.

4. The Government also observe that the District Magistrate has been in the practice of giving reasons for cancellation of licences or for refusal to renew them. In the case of cancellation, reasons have to be recorded in writing, but there is no legal obligation to communicate the reasons. In the case of refusal to renew, there is no legal obligation either to record reasons or to communicate reasons. The communication of reasons may, in some cases, lead to difficulties.

5. It is observed from the District Magistrate's letter read above that licences are issued as valid from January even though the use of the new arm is allowed in December. A licence granted during December should be granted for the remaining portion of the year and full fee charged therefor. This practice is irregular.

(By Order of the Governor in Council)

E.F.Thomas.
Ag.Chief Secretary to Government

The District Magistrate of South Kanara
(with papers in original).

Forwarded.
(By Order)

Superintendent

Typed-7-34